IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.MC.No. 2017 of 2007()

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AGAINST THE ORDER IN LP.1/07 IN
CC.1883/2001 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

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PETITIONER: ACCUSED:
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JIMSON C.J.,
VAZHAPILLY CHAKKAITH HOUSE, EDAPPANA,
PATTIKKAD, THRISSUR DISTRICT.

BY ADV. SRI.P.K.ANIL

RESPONDENTS: COMPLAINANT/STATE:
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EFFICIENT MARKETING,
PARAMBITHARA CROSS ROAD, ERNAKULAM, KOCHI.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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Crl.M.C.No. 2017 of 2007

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Dated this the 26th day of June, 2007

**O R D E R**

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. The petitioner allegedly did not receive any summons. According to the petitioner, he is absolutely innocent. Reckoning him as absconding, though no summons was served on him, the learned Magistrate has issued warrant to procure his presence. The petitioner is willing to appear before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance

with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

**(R. BASANT)**
Judge

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